

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

FAIR ISAAC CORPORATION,

Court File No. 16-cv-1054 (WMW/DTS)

Plaintiff,

v.

**DECLARATION OF TERRENCE J.
FLEMING IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

FEDERAL INSURANCE COMPANY,
an Indiana corporation, and ACE
AMERICAN INSURANCE COMPANY,
a Pennsylvania corporation,

Defendants.

I, Terrence J. Fleming, declare as follows:

1. I am an attorney at Fredrikson & Byron, P.A. and am one of the attorneys representing Defendants Federal Insurance Company and ACE American Insurance Company in this case.

2. Attached as **Exhibit 1** is a true and correct copy of excerpts from the Form 10-K for Chubb Limited for fiscal year ended December 31, 2018.

3. Attached as **Exhibit 2** is a true and correct copy of the May 17, 2019 Expert Report of William S. McCarter.

4. Attached as **Exhibit 3** is a true and correct copy of the Software License and Maintenance Agreement, dated June 30, 2006 (FICO000208-FICO000223).

5. Attached as **Exhibit 4** is a true and correct copy of Amendment One to Software License and Services Agreement, dated August 1, 2006 (FICO0002118-FICO0002119).

6. Attached as **Exhibit 5** is a true and correct copy of Amendment Two to Software License and Services Agreement, dated December 28, 2006 (FICO0000226-FICO0000228).

7. Attached as **Exhibit 6** is a true and correct copy of a November 26, 2008 email from Lawrence Wachs (Deposition Exhibit 116).

8. Attached as **Exhibit 7** is a true and correct copy of excerpts from the Deposition Transcript of Russell Schreiber taken on October 24, 2018.

9. Attached as **Exhibit 8** is a true and correct copy of a June 6, 2006 email from Jandeen Boone (Deposition Ex. 305).

10. Attached as **Exhibit 9** is a true and correct copy of a June 27, 2006 email from Jandeen Boone (Deposition Exhibit 311).

11. Attached as **Exhibit 10** is a true and correct copy of excerpts from the Deposition Transcript of Michael Sawyer taken on October 2, 2018.

12. Attached as **Exhibit 11** is a true and correct copy of excerpts from the Deposition Transcript of Christopher Ivey taken on March 14, 2019.

13. Attached as **Exhibit 12** is a true and correct copy of the presentation entitled Positioning for Growth: A Legacy System Modernization Story, dated November 1, 2011 (Deposition Exhibit 521).

14. Attached as **Exhibit 13** is a true and correct copy of the August 14, 2012 email from Michael Sawyer (Deposition Exhibit 47).

15. Attached as **Exhibit 14** is a true and correct copy of a November 14, 2008 Calendar appointment from Michael Sawyer (Deposition Exhibit 73).

16. Attached as **Exhibit 15** is a true and correct copy of excerpts from Plaintiff's First Amended Privilege Log, dated February 5, 2019.

17. Attached as **Exhibit 16** is a true and correct copy of an August 28, 2013 email from Oliver Clark (Deposition Exhibit 48).

18. Attached as **Exhibit 17** is a true and correct copy of a March 26, 2015 email from Russ Schreiber (Deposition Exhibit 57).

19. Attached as **Exhibit 18** is a true and correct copy of an April 1, 2015 email from Oliver Clark (Deposition Exhibit 60).

20. Attached as **Exhibit 19** is a true and correct copy of a July 1, 2015 email from Russ Schreiber (Deposition Exhibit 121).

21. Attached as **Exhibit 20** is a true and correct copy of a November 13, 2015 email from Natasha Fowlin (Deposition Exhibit 81)

22. Attached as **Exhibit 21** is a true and correct copy of an October 7, 2015 email from Michael Sawyer (Deposition Exhibit 123).

23. Attached as **Exhibit 22** is a true and correct copy of a January 8, 2016 email from Michael Sawyer (FICO0003090-FICO0003092).

24. Attached as **Exhibit 23** is a true and correct copy of a January 27, 2016 letter from Thomas Carretta (Deposition Exhibit 90).

25. Attached as **Exhibit 24** is a true and correct copy of a February 25, 2016 email from Tamra Pawloski (Deposition Exhibit 94).

26. Attached as **Exhibit 25** is a true and correct copy of a February 26, 2016 email from Thomas Carretta (Deposition Exhibit 95).

27. Attached as **Exhibit 26** is a true and correct copy of excerpts from the April 2, 2019 deposition of William Waid.

28. Attached as **Exhibit 27** is a true and correct copy of a March 11, 2016 email from Thomas Carretta (Deposition Exhibit 98).

29. Attached as **Exhibit 28** is a true and correct copy of a March 30, 2016 letter from Thomas Carretta (Deposition Exhibit 103).

30. Attached as **Exhibit 29** is a true and correct copy of a February 25, 2016 email from Andrew Hopp (FED009792_0001).

31. Attached as **Exhibit 30** is a true and correct copy of excerpts from the January 18, 2019 deposition of Tamra Pawloski.

32. Attached as **Exhibit 31** is a true and correct copy of a June 7, 2011 email from Henry Miroluz with attachment (Deposition Exhibit 381).

33. Attached as **Exhibit 32** is a true and correct copy of excerpts from the Expert Report of Neil Zoltowski.

34. Attached as **Exhibit 33** is a true and correct copy of a FICO Global Price List dated October 10, 2003 (Deposition Exhibit 421).

35. Attached as **Exhibit 34** is a February 27, 2007 email from Karen Beale (FICO0063033-FICO00603034).

36. Attached as **Exhibit 35** is a true and correct copy of a February 28, 2006 email from William Waid (FICO0062149-FICO0061251).

37. Attached as **Exhibit 36** is a true and correct copy of a March 1, 2006 email from David Burgess (FICO0062287-FICO0062288).

38. Attached as **Exhibit 37** is a true and correct copy of a July 5, 2013 email from William Waid (FICO0062098-FICO0062102).

39. Attached as **Exhibit 38** is a true and correct copy of a September 21, 2006 email from James Chaban (FICO0062204).

40. Attached as **Exhibit 39** is a true and correct copy of a September 13, 2007 email from Robin Green (FICO0062968-FICO0062974).

41. Attached as **Exhibit 40** is a true and correct copy of the March 9, 2005 email from Christopher LeBaron (FICO0062503).

42. Attached as **Exhibit 41** is a true and correct copy of the June 13, 2019 Plaintiff Fair Isaac Corporation's Written Answers to Questions from the Rule 30(b)(6) Deposition of William Waid.

43. Attached as **Exhibit 42** is a true and correct copy of excerpts from the Deposition Transcript of Randolph Bickley Whitener taken on June 27, 2019.

44. Attached as **Exhibit 43** is a true and correct copy of excerpts from the Deposition Transcript of Neil Zoltowski taken on June 14, 2019.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: July 26, 2019

s/ Terrence J. Fleming
Terrence J. Fleming